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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 MICHAEL DENTON,

9 Plaintiff,

v.

10 PAUL A. PASTOR, et al.,

11 Defendants.

CASE NO. C17-5075 BHS-TLF

ORDER DECLINING TO ADOPT  
REPORT AND  
RECOMMENDATION AND  
REFERRING FOR FURTHER  
CONSIDERATION

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13 This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Theresa L. Fricke, United States Magistrate Judge, Dkt. 126, Defendants’ objections to the R&R, Dkt. 128, and Plaintiff Michael Denton’s (“Denton”) objections to the R&R, Dkt. 129.

17 On October 19, 2018, the Court dismissed Denton’s remaining claims in *Denton v. Pastor*, C16-5314RJB, “as a sanction for non-participation, non-compliance, and multiplying and obstructing proceedings.” *Id.*, Dkt. 248. On October 23, 2018, Judge Fricke issued the R&R in this case recommending that the Court deny Defendants’ motion to dismiss in part and grant the motion in part. Dkt. 126. On November 6, 2018, Defendants filed objections arguing that many of Denton’s current claims should be

1 dismissed under the doctrine of res judicata based on the Court's order in C16-5314RJB.  
2 Dkt. 128. That same day, Denton filed objections arguing that his request for injunctive  
3 relief should not be dismissed. Dkt. 129.

4 The district judge must determine de novo any part of the magistrate judge's  
5 disposition that has been properly objected to. The district judge may accept, reject, or  
6 modify the recommended disposition; receive further evidence; or return the matter to the  
7 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

8 In this case, the Court finds that Defendants' objections have merit. The Court,  
9 however, concludes that the best course of action is to refer the matter to Judge Fricke for  
10 her to consider the merits of a fully briefed motion on the issue of res judicata.

11 Therefore, the Court having considered the R&R, the parties' objections, and the  
12 remaining record, does hereby find and order as follows:

- 13 (1) The Court declines to **ADOPT** the R&R; and  
14 (2) The Clerk shall refer the matter to Judge Fricke for further proceedings and  
15 consideration.

16 Dated this 31st day of January, 2019.

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19 BENJAMIN H. SETTLE  
20 United States District Judge  
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